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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,523	03/23/2004	Todd A. Kirkman	5853	3431
44341	7590	09/20/2005		EXAMINER
JACOBSON & JOHNSON ONE WEST WATER STREET, SUITE 285 ST. PAUL, MN 55107				PELHAM, JOSEPH MOORE
			ART UNIT	PAPER NUMBER
			3742	

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/807,523	KIRKMAN, TODD A.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Joseph M. Pelham	3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 06 July 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-16, 18-21 and 23 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 1-7, 16 and 18-20 is/are allowed.  
 6) Claim(s) 8-10 and 21 is/are rejected.  
 7) Claim(s) 11-15 and 23 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 23 March 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

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The Examiner acknowledges Applicant's submission of the amendment filed 7/6/05. Claims 1-16, 18-21, and 23 are now pending. Further search has found relevant prior art, and new grounds of rejection are applied below. The Examiner sincerely regrets any inconvenience.

### ***Claim Rejections - 35 USC § 102***

Claim 21 is rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. 3904850 (US'850).

Referring to Fig. 3 and col. 2, lines 12-44, US'850 discloses a contact heater comprising a heating element 12 separated from a mesh screen ground member 18 on its "free side" by an insulating member, heat sealed in an insulating silicone rubber material 10, 14.

### ***Claim Rejections - 35 USC § 103***

Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. 3904850 (US'850) in view of US Pat. 5017758 (US'758).

The claims differ from US'850 only in reciting the application of the contact heater to a vehicle fluid reservoir. However, the contact heater of US'850 is intended specifically for a hostile environment in which the heater must be sealed from the elements and electrical shock avoided if it should be punctured, but is otherwise silent about specific applications. US'758 discloses the a closely analogous contact heater secured to a vehicle fluid reservoir. It would have been obvious to utilize the heater of 'US'850 to heat a vehicle fluid reservoir because US'758 shows such to be exactly such an application for which it is intended.

### ***Allowable Subject Matter***

Claims 1-7, 16, and 18-20 are allowed.

Claims 11-15 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph M. Pelham whose telephone number is 571-272-4786. The examiner can normally be reached on M-F 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

9/14/05



JOSEPH PELHAM  
PRIMARY EXAMINER